

**MEMORANDUM**

TO: Hon. Ona T. Wang  
U.S. Magistrate Judge

FROM: John Moscato  
Supervising US Pretrial Services Officer

RE: USA v. Josek  
Defendant: Kelly Josek  
DOCKET #: 23 M 7565

The attached memorandum was prepared by Pretrial Services Officer


John Moscato  
Name

212-805-4320  
Phone Number

Please initial the appropriate box(es) and return this form to us so that we may comply with your instructions.

☐ I have reviewed the information that you have supplied. I do not believe that this matter requires any action by the Court at this time.

☒ My office will inform all parties concerned that I will conduct a Bail Review Hearing in  
Courtroom # 20D on January 30, 2024 at 10:30 am.  
Date Time

☒ So Ordered: 

☐ I request that a Bail Review Hearing be conducted by:

☐ The presiding Magistrate Judge in courtroom # 5A.

☐ The District Court Judge presiding in Part I.

☐ \_\_\_\_\_ at his/her earliest convenience.

**Judicial Officer**



## MEMORANDUM

**To:** Honorable Ona T. Wang  
United States Magistrate Judge

**From:** John Moscato  
United States Pretrial Services Officer  
Supervisor

**Re:** Josek, Kelly  
23 M 7565

**Date:** January 19, 2024

This memorandum serves to provide the Court with information regarding the non-compliance of defendant, Kelly Josek, who was released on bail on 12/17/2023 but has not reported to Pretrial Services as required.

### **BACKGROUND**

The defendant was initially arrested in the Southern District of New York on April 22, 2023, pursuant to a warrant from the Eastern District of Texas charging her with Count 1: Title 18 U.S.C. § 1546(a) - Fraud and Misuse of Visas, Permits, and Other Documents and Count 2: Title 18 U.S.C. § 1028A – Aggravated Identity Theft. On April 24, 2023, the defendant appeared before United States Magistrate Judge Ona T. Wang for an initial appearance and was ordered released on bail with conditions. Later that day, a second hearing was held before Magistrate Wang in light of an extradition warrant in Texas, and the defendant was ordered detained.

On May 9, 2023, United States Magistrate Judge Valerie Figueredo reinstated the defendant's prior conditions of release and was ordered released on bail. She was placed under Pretrial Services supervision and instructed to report to EDTX for an initial appearance in that district on May 26, 2023. On that day, the defendant appeared before United States Magistrate Judge Nowak for arraignment and the bail originally set in SD/NY was continued. The defendant continued with Pretrial Services supervision.

In June 2023, following multiple failed drug tests for cocaine, opiates, and marijuana, a violation action was initiated in the EDTX. On June 30, 2023, a bench warrant was issued by United States

Magistrate Judge David A. O'Toole and, at the instruction of the United States Probation and Pretrial Services Office in EDTX, our office closed interest in the case.

On 12/15/2023, the defendant was arrested pursuant to the warrant issued by EDTX and an initial appearance was held before the Honorable Ona T. Wang. Bail was ordered as follows:

- \$25,000 PRB cosigned by two financially responsible persons
- Travel restricted to SDNY/EDNY and EDTX for court proceedings and points in between for travel
- Surrender all travel documents and make no new applications
- Pretrial Services supervision as directed
- Drug Testing/Treatment as directed
- Submit to urinalysis; if (+) add drug testing and treatment
- Seek and maintain verifiable employment
- Not to possess a firearm, destructive device or any other dangerous weapon
- Pretrial Services Supervision as directed

According to United States Probation Officer Taylor Murray, an initial court date is set in the Eastern District of Texas on 2/6/2024 at 11AM.

### **NON-COMPLIANCE**

On 12/15/2023, following the initial appearance and bail hearing, the defendant, who had open state warrants, was held by the United States Marshal Service. Her attorney, Martin Cohen, advised Pretrial Services that the defendant was instructed to contact his office and Pretrial Services once she clears her warrants and is released.

On 12/26/2023, Pretrial Services contacted Martin Cohen and was advised that the defendant was released on 12/22/2023, before the Christmas weekend holiday.

Later that day, the defendant contacted Pretrial Services Officer Christina Venable and advised that she was released from state custody Friday morning (12/22) and she is now in Englewood, NJ where she is seeking to clear another outstanding warrant. She was instructed to call back when she finishes. She did not.

On 1/3/2024, attempts to contact the defendant were unsuccessful and Pretrial Services was advised that she had not contacted Martin Cohen either.

A search of New York and New Jersey Inmate Locator services failed to locate the defendant indicating that she is not in custody.

On 1/8/2024, this undersigned supervisor contacted a collateral person, Perduad Valentina, who advised that she is not aware of the defendant's whereabouts. Later that day, the undersigned contacted another collateral, named Modeta, who agreed to send a message to Ms. Josek. It is not

clear if she was able to complete this task as all subsequent calls and text messages went unanswered.

On 1/9/2024, the undersigned called Iris Yang, the defendant's state public defender who noted that she believes that the defendant is at liberty. She agreed to provide a message to the defendant when she next talks with her.

On 1/11/2024, a home visit was attempted at the last known address, however, no contact was established.

On 1/11/2024, the defendant sent a text message to the undersigned supervisor. She explained that she is still trying to clear a warrant in NJ. She was told that she must report to the office tomorrow, 1/12/2024 without fail. She was told that it is urgent that she report before any other errand. She agreed to report to the office. She also noted that her phone only works for text messaging.

On 1/12/2024, the defendant did not report as required. Since then, numerous calls and texts were sent to the defendant asking for a call back, for her to report to the office, and for her to explain herself. No response was received.

On 1/17/2024, the undersigned supervisor advised Martin Cohen that due to the defendant's failure to report, a violation memo must be submitted to the Court. Mr. Cohen asked for an opportunity try again to contact the defendant himself before the submission of the violation. Pretrial Services agreed to wait until the end of business on 1/17/2024.

On 1/17/2024 at approximately 12:14PM, the defendant sent a series of text messages and calls to the supervisor advising that she is having trouble getting childcare but will report to the office today. This supervisor called her and explained to her that she must report, that there is no warrant, that she should not fear being arrested, and that it is the objective of our office to assist her with treatment and provide supervision while she awaits her court dates. This supervisor explained to her that she must report to the office by 4PM today to be given reporting instructions and to begin the supervision process. She agreed. She did not report as promised.

At 5:30 PM, this supervisor inquired as to why she failed to report. She stated that her eldest son, who provides child care, just arrived to her home minutes ago, but he will stay overnight to allow her to report to the office tomorrow (1/18/2024) by 10AM.

On 1/18/2023 at 9AM, this supervisor sent reminder messages to the defendant to report to the office at 10AM. She did not reply until 12PM at which time she stated that she will report to the office with her two young children as she has no childcare.

She again failed to report and text messages asking for an explanation were sent and unanswered.

Both AUSA Ryan Nees and Federal Defender, Martin Cohen are aware of the defendant's failure to report to Pretrial Services.

## RECOMMENDATION

Pretrial Services respectfully recommends that a hearing be scheduled to address the defendant's failure to report.

Respectfully Submitted,

Scott Kowal, Chief  
U.S. Pretrial Services Officer

/s/  
John Moscato  
Supervisory U.S. Pretrial Services Officer

cc: Ryan Nees, Assistant U.S. Attorneys (via e-mail)  
Martin Cohen, Defense counsel (via e-mail)